

CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

ORIGINAL United States District Court

2015 APR 28 PM 4:19

NORTHERN

DISTRICT OF

TEXAS

DEPUTY CLERK

**In the Matter of the Search of**

The body of David Sena, which is currently located at premises owned, maintained, controlled or operated by the Texas Tech University Medical Center, 602 Indiana Avenue, Lubbock, Texas, 79415.

**APPLICATION AND AFFIDAVIT  
FOR SEARCH WARRANT**

**CASE NUMBER:**

**5-15MJ00041**

I, Michael N. Orndorff, being duly sworn depose and say:

I am a(n) Special Agent with the Federal Bureau of Investigation, and have reason to believe that in the accounts described as- see attachment "A" of the Affidavit attached hereto and made a part of this Application for Search Warrant

in the NORTHERN District of TEXAS there is now concealed a certain person or property, namely-

see Attachment "B" of the Affidavit attached hereto and made a part of this Application for Search Warrant


which is

property that constitutes evidence of the commission of a crime, contraband, the fruits of crime, and is otherwise criminally possessed, and property designed for use, intended for use, or used in committing a crime, concerning a violation of Title 18 United States code, Section(s)

342 The facts to support a finding of Probable Cause are as follows:

(SEE ATTACHED AFFIDAVIT OF SPECIAL AGENT MICHAEL N. ORNDORFF).

Continued on the attached sheet and made a part hereof. XX Yes    No

  
Signature of Affiant  
MICHAEL N. ORNDORFF  
Special Agent, FBI

Sworn to before me, and subscribed in my presence

April 28, 2015  
Date

at

Lubbock, Texas  
City and State

United States Magistrate Judge  
Name and Title of Judicial Officer

  
Signature of Judicial Officer

**AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR A SEARCH WARRANT**

I, Michael N. Orndorff, being first duly sworn, hereby depose and state as follows:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and am assigned to the Dallas Division, Lubbock Resident Office, Lubbock, Texas. I have been a federal criminal investigator for 19 years.

2. As a federal agent, I am authorized to investigate violations of laws of the United States, and I am a law enforcement officer with the authority to affect arrests and execute warrants issued under the authority of the United States. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents, law enforcement officers, and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested search warrant and does not set forth all of my knowledge about this matter.

3. This affidavit is provided in support of an application for a search warrant for authorizing the search of the body of David Sena. The purpose of the search is the location and seizure of blood that constitutes evidence of the commission of the crime of operating a common carrier under the influence of alcohol or drugs, which is more fully described in Attachment "A."

4. Title 18, United States Code, Section 342 states that it is a violation of federal law for a person to operate or direct the operation of a common carrier while under the influence of alcohol or any controlled substance. The term "common carrier" means a locomotive, a rail carrier, a sleeping car carrier, a bus transporting passengers in interstate commerce, a water common carrier, and an air common carrier.

5. Based on my training, experience, and the facts as set forth in this affidavit, there is probable cause to believe that violations of Title 18, United States Code, Section 342 have been committed by David Sena. There is also probable cause to search the property described in Attachment "A" for evidence, fruits, and instrumentalities of these crimes, as described in Attachment "B."

6. The property described in Attachment "A" will be obtained from David Sena by appropriate medical personnel (a physician, registered nurse, emergency medical technician, phlebotomist, or other qualified person to obtain samples), in the presence of a duly-authorized law enforcement agent. After the property is obtained from David Sena, the blood sample will be transmitted by law enforcement to the Texas Department of Public Safety Laboratory for analysis and testing.

#### **INVESTIGATION**

7. On Tuesday, April 28, 2015, I was provided with the following information from Officer Samuel Wiley with New Mexico State Police:

8. On or about Tuesday, April 28, 2015, Officer Samuel Wiley with New Mexico State Police was dispatched to the Roswell, New Mexico, area to a head-on collision involving two locomotives. Upon arrival, Officer Wiley observed multiple cars derailed on the east portion of State Road 2.

9. The collision occurred in a location where one railroad track is able to travel north or south bound, and a diverted section is created to allow a stationary locomotive to rest while the main railroad track is in use. It was discovered that Locomotive Engine 4072 was traveling south on the tracks south of where it intersected with Largo Road.

Locomotive Engine 3124 was at a stop with no operator present within. Engine 4072 had traveled southbound on the main track approaching a railroad direction switch, had entered into area where Engine 3124 was located, and had impacted it head on.

10. Officer Wiley observed a male, later identified as David Sena, on the eastern dirt shoulder of State Road 2. Mr. Sena was later transported to Eastern New Mexico Medical Center with severe injuries sustained in the collision.

11. A second male was found among the debris from the collision, and was pronounced dead at the scene by Corina Calzada with the Office of the Medical Investigator. The male was later identified as Jesse Coburn by his New Mexico Driver's License.

12. Officer Wiley was advised by Detective O'Conner with the Roswell Police Department that during his investigation, a blue and clear plastic container was located within the Engine 4072 operator compartment. The plastic container contained Zig-Zag rolling papers with multiple separate baggies containing a green leafy substance, as well as two pipes used to smoke marijuana. The green leafy substance field tested positive for marijuana.

13. Jesse Coburn was the conductor Engine 4072, and David Sena was the engineer of Engine 4072 at the time of the collision.

14. David Sena was later transported by helicopter to University Medical Center in Lubbock, Texas, for further treatment of injuries. At this time of this affidavit, he remains at that location.

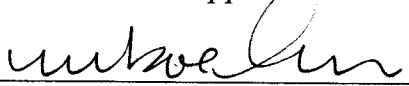
15. A sample of David Sena's blood is needed in order to conduct testing for alcohol and/or marijuana levels.

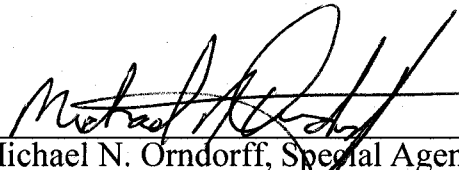
**CONCLUSION**

16. Based on the above information, I respectfully submit that there is probable cause to believe that the above described individual, David Sena, has committed violations of Title 18, United States Code, Section 342, and that in light of the above information regarding the marijuana found at the scene of the collision, there is probable cause to believe that obtaining a sample of David Sena's blood is necessary in order to complete testing for alcohol use as well as the use of drugs, specifically marijuana.

WHEREFORE, I respectfully request that the Court issue a search warrant for the search of the item listed in Attachment "A" of this affidavit, for the items listed in Attachment "B" of this affidavit, all of which are incorporated by reference as if fully set forth herein. I further request that all samples taken are provided to the appropriate law enforcement agents and/or medical personnel.

Reviewed and approved:

  
\_\_\_\_\_  
Myria Boehm  
Assistant United States Attorney

  
\_\_\_\_\_  
Michael N. Orndorff, Special Agent  
Federal Bureau of Investigation

Sworn and subscribed before me this 28th day of April, 2015.

  
\_\_\_\_\_  
NANCY M. KOENIG  
UNITED STATES MAGISTRATE JUDGE

**ATTACHMENT "A"**

1. The property is described as the body of David Sena, which is currently located at the Texas Tech University Medical Center, 602 Indiana Avenue, Lubbock, Texas, 79415.

**ATTACHMENT "B"**

**ITEMS TO BE SEIZED**

1. A sample of the blood from the body of David Sena sufficient for the purposes of testing for alcohol and/or drugs, specifically marijuana.